

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

DEC 03 2010

Stephan Harris, Clerk
Cheyenne

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

TRICIA WACHSMUTH,)
)
Plaintiff,)
)
vs.) Case Number 10-CV-41-J
)
CITY OF POWELL, TIM FEATHERS,)
CHAD MINOR, MIKE CRETIEN, ROY)
ECKERDT, DAVE BWORN, MIKE HALL)
BRETT LARA, MATT McCASLIN, ALAN)
KENT, MIKE DANZER, MATT BRILAKIS,)
LEE BLACKMORE, CODY BRADLEY,)
JOHN DOES #1-5,)
)
Defendants.)

MOTION TO QUASH SUBPOENA

Movant, State of Wyoming, Division of Criminal Investigation, (WDCI) by and through the Wyoming Attorney General's Office, and pursuant to Rule 45(c)(3)(A)(i) and (iv) of the Federal Rules of Civil Procedure, hereby requests this Court's order quashing the Subpoena served on WDCI Special Agent Steve Hermann, which is Document 44 in this Court's docket. In support of its motion, Movant informs the Court as follows:

1. The subpoena was served on Special Agent Hermann on November 30, 2010, and commands him to appear for a deposition on December 8, 2010. Special Agent Hermann had no knowledge of the deposition until he received the subpoena; neither he nor his supervisors were contacted to set the date for the deposition. Thus, Special Agent Hermann received only eight days notice to comply with the subpoena.

2. F.R.C.P. 45(c)(3)(A)(i) provides that "on timely motion, the issuing court must quash or modify a subpoena that fails to allow a reasonable time to comply[.]"

3. The subpoena fails to allow Special Agent Hermann a reasonable time to comply. Accordingly, this Court should quash the subpoena

4. Special Agent Hermann is the supervisor of the Northwest Enforcement Team. As such, he supervises a team of eight agents, with offices in Riverton and Powell, Wyoming. Special Agent Hermann is scheduled to attend an annual administrators' conference in Riverton, Wyoming on December 8, 2010. That conference is an annual meeting of administrators from WDCI, the Wyoming Highway Patrol, the Bureau of Indian Affairs, as well as county and municipal law enforcement agencies. The conference has been scheduled, and cannot be easily re-scheduled. Further, Special Agent Hermann, as the supervisor of the Northwest Enforcement Team, is a key participant in the conference.

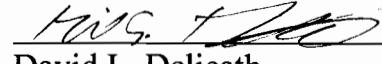
5. F.R.C.P. 45(c)(3)(A)(iv) provides that "on timely motion, the issuing court must quash or modify a subpoena that subjects a person to undue burden."

6. The subpoena subjects Special Agent Hermann to an undue burden. Accordingly, this Court should quash the subpoena.

7. DCI Deputy Director, Kebin Haller, attempted to contact Plaintiff's counsel by telephone on December 1, 2010, to request that the deposition be rescheduled. Plaintiff's counsel was not available, and has not returned Deputy Director Haller's call.

WHEREFORE, Movant respectfully requests this Court's order quashing the subpoena in accordance with the authorities discussed above.

Respectfully submitted this 3rd day of December, 2010.



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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December, 2010, the foregoing **MOTION TO QUASH SUBPOENA** was served upon the following individual(s) by United States Mail, postage prepaid:

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